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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/706,446	11/02/2000	Amar S. Gandhi	3382-56401	6409
7590	07/30/2004		EXAMINER	
Stephen A Wight Klarquist Sparkman Campbell Leigh & Whinston LLP One World Trade Center, Suite 1600 121 S W Salmon Street Portland, OR 97204			VAUGHN JR, WILLIAM C	
			ART UNIT	PAPER NUMBER
			2143	8
DATE MAILED: 07/30/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/706,446	GANDHI ET AL. <i>[Signature]</i>
Examiner	Art Unit	
William C. Vaughn, Jr.	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 01 August 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-23 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-23 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 02 November 2000 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4,6,7.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

par

## DETAILED ACTION

1. This Action is in regards to the most recent papers received on 01 August 2003.

### *Information Disclosure Statement*

2. The references listed in the Information Disclosure Statement submitted on 14 May 2001, 02 February 2001 and 01 August 2003, have been considered by the examiner (see attached PTO-1449).

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Krishnamurthy et al., (Krishnamurthy), U.S. Patent No. 6,389,464 in view of Reisman, U.S. Patent No. 6,658,464.

5. Regarding **claim 1**, Krishnamurthy discloses the invention substantially as claimed. Krishnamurthy discloses *a method of programmatically controlling a service of a logical device realized on a first computer on a data communications network via peer-to-peer networking connectivity from a second computer on the data communications network, the method comprising: obtaining at the second computer a service description message of the service from the first computer, the service description message detailing a set of actions that can be invoked on the service via network data messages conveyed to the first computer via peer-to-peer networking connectivity over the data communications network* (Krishnamurthy teaches a web

server allows communication between a remote computer and the site server using HTTP and HTML. That the HTTP transactions requests a specific page and optional query information), [see Krishnamurthy, Col. 7, lines 54-65]. However, Krishnamurthy does not explicitly disclose exposing a programming interface to access by software programs running on the second computer, the programming interface having an action-invoking member; based on the service description message, converting a programmatic invocation of the action-invoking member of the programming interface by a software program running on the second computer into a network data message for invoking an action of the service via peer-to-peer networking connectivity over the data communications network and transmitting the network data message to the first computer to thereby invoke the action of the service.

6. In the same field of endeavor, Reisman discloses (e.g., user station software that controls transport, storage and presentation of content from a remote source). Reisman discloses *exposing a programming interface to access by software programs running on the second computer, the programming interface having an action-invoking member; based on the service description message, converting a programmatic invocation of the action-invoking member of the programming interface by a software program running on the second computer into a network data message for invoking an action of the service via peer-to-peer networking connectivity over the data communications network and transmitting the network data message to the first computer to thereby invoke the action of the service* (Reisman teaches utilizing and client interface API comprising multiple graphical user interfaces that drive a generic APU which works with plug-in translator/communicator (modules that are provided to communicate a target online service) [see Reisman, Col. 52-67 and Col. 24, lines 1-67].

7. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Reisman teachings of a user station software that controls transport, storage and presentation of content from a remote source with the teachings of Krishnamurthy, for the purpose of providing a more simpler, economical and way for transport software to be distributed [see Reisman, Col. 5, lines 5-9]. By this rationale **claim 1** is rejected.

8. Regarding **claim 2**, Krishnamurthy-Reisman discloses *wherein the network data message for invoking the action is a mark-up language text message* [see Krishnamurthy, Col. 7, lines 54-65 and Col. 8, lines 5-61]. By this rationale **claim 2** is rejected.

9. Regarding **claim 3**, Krishnamurthy-Reisman discloses *wherein the programming interface is an object integration according to an object-oriented programming model* [see Krishnamurthy, Col. 8, lines 43-44]. By this rationale **claim 3** is rejected.

10. Regarding **claim 4**, Krishnamurthy-Reisman discloses *wherein the programming interface is a run-time dispatching interface* [see Krishnamurthy, Col. 8, lines 43-47]. By this rationale **claim 4** is rejected.

11. Regarding **claim 5**, Krishnamurthy-Reisman discloses *wherein the action-invoking member accepts an invocation parameter indicating the action of the service that is to be invoked* [see Krishnamurthy, Col. 8, lines 40-67]. By this rationale **claim 5** is rejected.

12. Regarding **claim 6**, Krishnamurthy-Reisman discloses *wherein the programming interface further has a service state-querying member, the method further comprising: responsive to programmatic invocation of the service state-querying member by the software programs running on the second computer, obtaining state data of the service via peer-to-peer*

*networking connectivity over the data communication network* (The Examiner takes Official Notice (see MPEP 2144.03) that it was extremely well known in the networking art at the time the invention to obtain state data regarding services on one system. Thus, it is also well known in the networking environment for SNMP agents to obtain state information on other systems within the network), [see Krishnamurthy, Col. 8, lines 62-67 and Col. 9, lines 1-65]. By this rationale **claim 6** is rejected.

13. Regarding **claim 7**, Krishnamurthy-Reisman discloses *wherein the programming interface has a service state-querying member that accepts an invocation parameter indicative of a state data variable of the service, the method further comprising: responsive to programmatic invocation of the service state-querying member by the software programs running on the second computer, obtaining a value of the state data variable of the service via peer-to-peer networking connectivity over the data communication network* (The Examiner takes Official Notice (see MPEP 2144.03) that it was extremely well known in the networking art at the time the invention to obtain state data regarding services on one system. Thus, it is also well known in the networking environment for SNMP agents to obtain state information on other systems within the network), [see Krishnamurthy, Col. 8, lines 62-67 and Col. 9, lines 1-65]. By this rationale **claim 7** is rejected.

14. Claims 8-12 list all the same elements of claims 1-7, but in device form rather than method form. Therefore, the supporting rationale of the rejection to claims 1-7 applies equally as well to claims 8-12.

15. Claims 13-16 list all the same elements of claims 1-7, but in computer readable medium form rather than method form. Therefore, the supporting rationale of the rejection to claims 1-7

applies equally as well to claims 13-16. The Examiner interprets the limitation of a computer-readable data-carrying medium to mean software program code stored on a memory.

16. Claims 17-23 list all the same elements of claims 1-7, but in software module form rather than method form. Therefore, the supporting rationale of the rejection to claims 1-7 applies equally as well to claims 17-23.

***Double Patenting***

17. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-23 are provisionally rejected under the judicially created doctrine of double patenting over claims 1-12 of copending Application No. 09/432,854. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter.

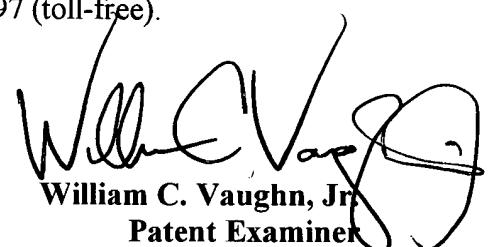
Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application.

### *Conclusion*

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Vaughn, Jr. whose telephone number is (703) 306-9129. The examiner can normally be reached on 8:00-6:00, 1st and 2nd Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on (703) 308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William C. Vaughn, Jr.  
Patent Examiner  
Art Unit 2143  
20 July 2004